

Section 5 AFFORDABLE HOUSING

PROJECT SUITABILITY PROCEDURE REGULATIONS

5.1 PURPOSE

The purpose of the within regulations is to provide the implementation procedure for the Affordable Housing Zoning Ordinance passed by the Town of Amherst at the annual Town Meeting on March 14, 1989, as the same has, from time to time, been amended. Said Ordinance provides certain treatment for projects that meet the criteria set forth with respect to Affordable Housing and requires the Planning Board to review proposed projects as a preliminary matter to determine whether or not they are 'suitable' within the meaning of said Ordinance. Additionally, by virtue of amendments to the Ordinance that were adopted in March of 2009, the Town has also sought to render the Ordinance compliant with the directives of the state 'workforce housing' law, (SB 342 – 2008 legislative session).

Said Ordinance also provides that the Planning Board may adopt regulations governing the process whereby the Affordable Housing Ordinance is implemented and these regulations are intended to accomplish that. In that regard, these regulations are intended to provide for a review process wherein the Planning Board will consider an applicant's project to determine the suitability of a particular project within the parameters of the Ordinance, but also to consider the issues of whether the housing units being proposed in the project are 'affordable' as that term is defined in the Ordinance, as well as the extent to which they can be realistically and reasonably constructed within those parameters. In this regard it is the intent of these regulations to provide a process for the applicant to present such information to the Board to enable the Board to make a reasoned and enlightened judgment as to these issues as well as to whether and to what extent to consider any waivers that may be requested in accordance with the terms of the Ordinance.

Said Ordinance also establishes a maximum number of units that may be approved in the Town in any calendar year and, accordingly, the Planning Board, in order to implement said Ordinance, must establish an appropriate procedural vehicle for the acceptance, review and approval of suitable projects having in mind the limitation imposed by the Ordinance. Said regulations are also intended to provide for certain to ensure any project approved and implemented will continue to qualify as a suitable project after it is constructed.

5.2 APPLICATION PROCEDURE:

5.2.1 Application:

Applicants seeking to have the Planning Board approve a proposal for an Affordable Housing project that presents 'affordable housing' within the meaning of the Ordinance, ^Mmay apply to the Planning Board for a review of its project pursuant to the conditions set forth herein. Said application shall be received at any time during the year, but will not be approved for

construction in any given year unless within the maximum permit number identified in the Ordinance or otherwise waived.

5.2.2 Form of Application:

An applicant desiring to apply for a suitability determination pursuant to these regulations shall make application on a form designated by the Town of Amherst Planning Board and shall contain all of the information required to enable the Planning Board to assess said proposal project with reference to the criteria set forth in Section 8.5 of the Town of Amherst Zoning Ordinance.

5.2.3 Governing Standards:

It is understood that the application process for an affordable housing project will require, as a threshold matter, a determination that:

5.2.3.1 The project is 'affordable' as that term is defined in the Ordinance; and

5.2.3.2 The project, if approved and constructed, will comply with the affordable housing in general and specific criteria, as more particularly set forth in the Ordinance.

Also, if an applicant is seeking any waivers from the general and specific criteria, it shall present sufficient information to inform the Board of the basis for such waiver requests and to address the criteria for such waivers as set forth in the Ordinance at Subsection 8.5.3, Paras. 8.5.3.1-12.

5.2.4 Required Information:

The applicant must present sufficient information to enable the Planning Board to identify the project as complying with the applicable standards. Such information may include, but not necessarily limited to, a preliminary site plan, a land appraisal reporting a current market value as if limited to the legally permissible highest and best use prior to any regulatory allowances, a development cash flow prospectus of sufficient detail demonstrating economic viability or a lack thereof in support of waivers sought under the application, architectural renderings, topographical maps, landscape plans showing existing and / or proposed vegetation and other information that is necessary, in the judgment of the Planning Board, to enable the Planning Board to make a judgment as to whether or not said proposal meets the general and specific criteria and / or the standards for any requested waivers, as set forth in the Ordinance.

The Planning Board and its administrative staff shall endeavor to advise applicants, when possible, during the period in which applications are received for filing of any additional specific requirements that the Planning Board feels are necessary in order to make a proper determination as to the suitability of a particular project. Failure of an applicant to provide requested information by the time of review of such application may result in a denial of the application.

5.2.5 Hearing Process:

It is understood that the submission of an application under these regulations for suitability determination, constitutes a threshold requirement, but the Planning Board will not make a

determination as to the suitability of a particular project unless the same is done at a public hearing with notification to the abutters of the proposed project in order that it may ensure proper input from abutting property owners and other persons who may be effected by the proposed project or who have any information that would be germane to the application. The Planning Board shall schedule the applications for a hearing and decide in a statutorily timely manner assuming all required information has been provided to the Board

5.3 Conditions of Approval:

In order to ensure that the purpose of the Affordable Housing Ordinance is met, the applicant shall be required as a condition of the finding of suitability to provide, among any other requirements, to the Planning Board a document in the form of a Declaration of Covenants or some other type of instrument satisfactory to Counsel and the Board, in form suitable for recordation in the Hillsborough County Registry of Deeds which document will encumber the property which is the subject of the application with appropriate conditions and requirements to ensure that the sale or lease of the dwelling units proposed in said application will be restricted to those persons qualified pursuant to the definition of affordable housing contained in Section 8.5 of the Ordinance. The applicant will be required to submit a proposed form of this document in the course of the application for suitability determination and no permits for the construction of any dwelling unit approved hereunder shall be granted until such time as said document has been received by the Planning Board, reviewed and approved by Counsel and the Board and is recorded in the Hillsborough County Registry of Deeds so as to restrict the property accordingly. Such document shall make adequate provision for the continuation of such restrictions for the length of the time designated in the Ordinance and shall identify, in such document, such private or public agency which will agree to monitor and administer the future sale(s) and / or occupancy of the property in a manner calculated to insure compliance with the intent and letter of the Ordinance.

In the event the Planning Board determines a project not to be suitable, the Board shall make written findings of its reasons for the same and in the event that the Planning Board divides the available permits among successful applicants in a way that favors any particular application, the Planning Board shall also make findings in the record of the proceedings indicating the justification for its apportionment. (4.26.89) (4.5.10)

